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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 753.95 ACRES OF LAND, et al.,

12 Defendants.  
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3:08-CV-386 JCM (VPC)

Date: N/A

Time: N/A

14 **ORDER**

15 Presently before the court is defendant Incline Lake Corporation's (hereinafter "ILC") motion  
16 to strike notices of authentication, or alternatively, for leave to file notice of authentication and for  
17 reconsideration of summary judgment motions. (Doc. #423). Plaintiff United States of America filed  
18 an opposition. (Doc. #429). ILC filed a reply in support of its motion. (Doc. #431). United States  
19 filed an affidavit declaration. (Doc. #434).

20 On August 23, 2010, the court entered an order denying ILC's motions for partial summary  
21 judgment (doc. #362, #364, and #366) for failure to properly authenticate pursuant to *Orr v. Bank*  
22 *of America, NT & SA*, 285 F.3d 764 (9th Cir. 2002). (Doc. #418). Subsequently, United States filed  
23 notice of supplemental authentication for exhibits (doc. #420) pertaining to its motion for legal  
24 determination under Federal Rule of Civil Procedure 71.1 (doc. #361) and its reply to the motion  
25 (doc. #411), and notice of authentication of exhibits (doc. #421) filed in connection with its motion  
26 in limine to exclude testimony (doc. #363) and its reply to the motion (doc. #412). In the present  
27 motion to strike these notices (doc. #423), ILC asserts that the authentications were filed late and  
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1 should be stricken.

2 The Ninth Circuit has held that “[w]hile evidence must be authenticated before the court  
3 considers it, it does not have to be authenticated with the motion for which it is being used.” *Prime*  
4 *Ins. Syndicate, Inc. v. Damaso*, 471 F. Supp. 2d 1087, 1093 (D. Nev. 2007) (citing *Hal Roach, Inc.*  
5 *v. Richard Feiner & Co.*, 896 F.2d 1542, 1550-51 (9th Cir. 1989)). Therefore, since the notices of  
6 authentication were provided to the court *prior* to the court’s ruling on the motions, the  
7 authentications were proper and timely.

8 Further, since the court has denied the two motions in question (doc. #430 and #437), the  
9 present motion to strike the authentication is moot.

10 Accordingly,

11 IT IS HEREBY ORDERED ADJUDGED AND DECREED that defendant Incline Lake  
12 Corporation’s motion to strike notices of authentication, or alternatively, for leave to file notice of  
13 authentication and for reconsideration of summary judgment motions (doc. #423) be, and the same  
14 hereby is, DENIED as moot.

15 DATED this 17<sup>th</sup> day of December, 2010.

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18 UNITED STATES DISTRICT JUDGE